

**REMARKS**

Claims 1, 3-9, 11-12, and 28 are currently pending in this application, while claims 13-27 have been previously withdrawn from consideration. Claim 10 has been canceled without prejudice to or disclaimer of the subject matter of that claim. Each dependent claim stands rejected under 35 U.S.C. § 102 or § 103, and claims 3-8 also stand objected to for containing specific informalities.

**Claim Objections**

Claims 3-8 stand objected as being dependent upon canceled claim 2. Claims 3-5 and 8 have been amended to now recite that they are dependent from claim 1 while the dependencies of claims 6 and 7 already cited claims other than claim 2. Consequently, the objection to claims 3-8 can no longer arguably stand.

**35 U.S.C. § 102**

Claims 9-12 and 28 stand objected to as being allegedly anticipated in part or in whole by four U.S. patents. As none of these patents disclose or suggest a bendable curve memory portion bent into a predetermined shape and containing a plurality of flushing orifices, the undersigned submits that each of these claims is patentable over the cited references.

The first reference, Ferrera, U.S. Patent No. 6,240,231, is entitled "Variable Stiffness Fiber Optic Shaft." It regards a "variable stiffness optical fiber shaft includes a optical fiber, and at least one coaxial layer of heat shrink polymer disposed over the optical fiber." See Abstract. As can be seen in Figure 22 of Ferrera, there are no flushing orifices anywhere within the device. Accordingly, not only does the optical fiber shaft in Ferrera lack a single flushing orifice, it lacks a plurality of them as recited in claim 9.

The second reference, U.S. Patent No. 5,599,325 to Ju is entitled "Thin Wall Catheter with Reinforcing Sleeve." It, too, lacks a plurality of flushing orifices. As can be seen in each of the figures, the exterior wall of the catheter 12 is intact along its entire length. The catheter in Ju only contains a single exit orifice, not a plurality of flushing orifices as recited in claim 9.

The third reference, U.S. Patent No. 4,568,338 to Todd, is entitled "Preformed Catheter."

Todd contains two curved portions, 50 and 60, which are shown in Figure 1. Neither one of these curved portions, however, contain a plurality of flushing orifices. Rather, orifices 90 are positioned between them, on a straight segment of the catheter that it is, itself, not bent into a predetermined shape. Consequently, Todd also fails to disclose or suggest the recited language.

The fourth reference is U.S. Patent No. 5,445,624 to Jimenez. This patent is entitled "Catheter with Progressively Compliant Tip." As with the preceding three references, this patent also fails to describe a catheter system wherein there is a bendable curve memory portion bent into a predetermined shape containing a plurality of flushing orifices. There is only a single orifice shown in the figures of Jimenez and this orifice is located at the most distal end of the catheter. Moreover, nowhere in Jimenez is there a discussion of taking a bendable curve memory portion and bending it into a predetermined shape, let alone having that portion contain a plurality of flushing orifices.

### **35 U.S.C. § 103**

Claims 1, 3-5 and 6-8 stand rejected under 35 U.S.C. § 103 as being allegedly unpatentable over Lange, U.S. Patent No. 6,036,682, further in view of either Todd, U.S. Patent No. 4,568,338, or McGurk, U.S. Patent No. 5,676,659. The undersigned submits that there is no need to address the impropriety of combining these references as none of the three of them disclose or suggest a first catheter with a wall, wherein the hardness of the wall surrounding the channel decreases in hardness in a first distinct region and then increases in hardness in a second distinct region, and then decreases in hardness again in a third distinct region, regardless of the orientation of the wall, as recited in claim 1.

In Lange, which is entitled "Catheter Having a Plurality of Integral Radiopaque Bands," there are no regions of decreasing and then increasing hardness. For one, the hardness in the radiopaque areas is constant, not decreasing or increasing at all. For another, as to Figure 8, while the hardness of the outer wall may be decreasing this outer wall is not followed by a region of increasing hardness let alone another region of decreasing hardness as recited in the claims. The other two references cited in combination with Lange are even further removed.

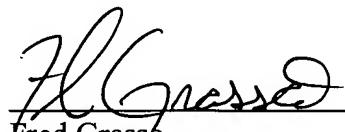
**CONCLUSION**

At least based upon the above discussion, the undersigned submits that each of the pending claims are patentable over the cited references. Reconsideration is, consequently, requested.

Should have the Examiner have any questions regarding this case, the undersigned may be reached at (202) 220-4311.

Respectfully submitted,

Date: August 31, 2004

  
\_\_\_\_\_  
Fred Grasso  
Reg. No. 43,644

KENYON & KENYON  
1500 K Street, N.W., Suite 700  
Washington, D.C. 20005  
Tel: (202) 220-4200  
Fax: (202) 220-4201